

Robert A. Mautino  
Mautino & Mautino  
California State Bar No. 54071  
1059 10<sup>th</sup> Avenue  
San Diego, CA 92101  
Telephone: (619) 235-9177  
E-mail: [bob@mautino.org](mailto:bob@mautino.org)

Attorneys for Plaintiffs

FILED

2007 DEC 26 PM 1:08

CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY Rm DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Faramarz Rassouli,  
Zahra Rassouli and  
Pouya Rassouli,

Plaintiffs

-vs-

Michael Chertoff, Secretary, Emilio  
Gonzalez, Director, Paul Pierre,  
District Director, Department of  
Homeland Security and Michael B.  
Mukasey, Attorney General,

Defendants

No. '07 CV 2411 JAH JMA

COMPLAINT FOR RELIEF IN THE  
NATURE OF MANDAMUS

CIS Nos. A98 446 069  
A98 446 070  
A98 446 071  
WAC05 067 50089  
WAC05 067 50079  
WAC05 067 50075

Plaintiffs, by their attorney, complaining of Defendants allege as follows:

1. Plaintiffs are natives and citizens of Iran who reside within the jurisdiction of this Court. Plaintiffs Faramarz and Zahra are husband and wife, and Plaintiff Pouya is their child. Plaintiffs' claim to relief arises under 8 U.S.C. 1255.

2. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security (DHS). Emilio Gonzalez is the Director of the bureau of

1       Citizenship and Immigration Services (CIS) of the DHS. Paul Pierre is the District  
2       Director of the San Diego District of the CIS and Michael B. Mukasey is the  
3       Attorney General of the United States. All Defendants are sued herein in their  
4       official capacities. Defendants are in charge of the processing and adjudication of  
5       applications for permanent residence.  
6

7       3. The Court has jurisdiction of this action pursuant to 28 U.S.C. 1331, 28  
8       U.S.C. 1361, 28 U.S.C. 1651 and 5 U.S.C. et seq., and relief is requested pursuant  
9       to said statutes.  
10

11       4. On or about December 29, 2004, the Plaintiffs filed applications for  
12       permanent residence (form I-485) with the Defendants. An immigrant visa petition  
13       (form I-140) on behalf of Plaintiff Faramarz, based on an approved Certification  
14       from the Department of Labor originally filed on April 22, 2002, was approved by  
15       the Defendants on May 24, 2005.  
16

17       5. Over the past two years, Plaintiff Faramarz has made several inquiries of the  
18       CIS as to the status of his and his family's applications for residence. The response  
19       has been that the applications are awaiting completion of background  
20       checks. Plaintiff Faramarz sent three inquiries through the office of United States  
21       Senator Diane Feinstein (D, CA) and one through the office of Representative  
22       Brian Bilbray (D, CA). The responses all indicated that background checks had  
23       not been completed.  
24

25       6. The Defendants have never indicated when the applications for permanent  
26       residence might be finally adjudicated. Since the Plaintiffs have never been able to  
27       get definitive answers from the Defendants, the Plaintiffs are forced to allege, on  
28

1 information and belief, that the Defendants have been doing nothing to move the  
2 applications toward final decisions.

3  
4 7. The Plaintiffs have exhausted their administrative remedies.

5 8. The Defendants' refusal to act in this case is, as a matter of law, arbitrary  
6 and not in accordance with the law and regulations.

7 9. The Defendants have effectively denied the Plaintiffs the opportunity to  
8 become lawful permanent residents of the United States, and the Plaintiffs have  
9 been greatly damaged by the Defendants' failure to act in accord with their duties  
10 under the law and regulations.


11  
12 10. The Defendants, in violation of the law and regulations, are unlawfully  
13 withholding or unreasonably delaying action on the Plaintiffs' applications and  
14 have failed to carry out the adjudicative and administrative functions delegated to  
15 them by law with regard to Plaintiffs' applications.

16 WHEREFORE, Plaintiffs pray:

17 That the Defendants be ordered to adjudicate Plaintiffs' applications for  
18 permanent residence without delay,

19 That the Court award such other and further relief as to this Court may seem  
20 reasonable and proper.

21  
22 Dated: 12/24/2007

  
Robert A. Mautino  
Mautino and Mautino  
Attorneys for Plaintiffs

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Faramarz Rassouli, et al.

(b) County of Residence of First Listed Plaintiff San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Robert A. Mautino  
Mautino and Mautino (619) 235-9177  
1059 10th Avenue  
San Diego, CA 92101

## DEFENDANTS

FILED

Michael <sup>2007 DEC 26</sup> Secretary, et al.

County of Residence of First Listed Plaintiff SAN DIEGO  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. RM DEPUTY

Attorneys (If Known)

07 CV 2411 JAH JMA

## II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☒ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 DEF Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4 DEF  
Citizen of Another State ☐ 2 ☐ 2 DEF Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5 DEF  
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 DEF Foreign Nation ☐ 6 ☐ 6 DEF

## IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

## V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify) \_\_\_\_\_  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause.  
Do not cite jurisdictional statutes unless diversity.)

8 USC 1255; lawsuit in mandamus to compel government action

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES  
DISTRICT COURT**  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

# 145865 - SR  
\* \* C O P Y \* \*  
December 26, 2007  
13:05:18

**Civ Fil Non-Pris**

USAO #: 07CV2411 CIV. FIL.  
Judge.: JOHN A HOUSTON  
Amount.:  
Check#: BC#10645 \$350.00 CK

**Total-> \$350.00**

FROM: RASSOULI V. CHERTOFF  
CIVIL FILING